

Memo to City Council

Re: Discussion on Water Service Request from High Alpine Brewing

From: Kathleen L. Fogo, City Attorney

CC: Mark Achen, Interim City Manager
Tex Bradford, Public Works Director
Gail Davidson, City Clerk

It is my understanding that Council will be asked to consider allowing the owners of High Alpine Brewing Company, to connect a new water line to an existing water service located on the adjoining property in which Treads 'N' Threads is located. The expressed purpose of such request is to avoid, at least temporarily, the cost associated with running a larger water line to the Brewery, sufficient to serve the needs of the facility.

The City of Gunnison Municipal Code, Title 12, Utilities, Chapter 12.20, Section 12.20.020, Connection Requirements (a)(4), prohibits such a connection.

This Section reads:

“4. Interconnection Prohibited – Separate Service Line. Service lines shall not be connected in any manner to serve buildings or parcels of land which are not part of the site being developed, and which are not owned by the permittee. Separate buildings on existing platted lots are required to have an individual service connection if lots can be sold separately under current zoning. In cases where service lines have been constructed from a single tap on a distribution main to parcels of land under different ownership prior to enactment of this chapter, and where a shutoff has been installed so water may be turned off to each parcel under separate ownership, and where a meter has been installed to measure the use of each parcel, these extensions shall be permitted until a distribution main is laid in a street, alley, or public right-of-way abutting these parcels of land. Within one year of notification by the city that a distribution main is available in the street, alley, or right-of-way abutting the property, any improvements thereon shall be connected thereto as required in this section. (Ord. 11-2003 § 10; Ord. 12-1998 § 1; Code 1997 § 12-2-2). “

The only exceptions to the prohibition is for shared water lines with individual shut-off valves that were in place prior to the enactment of this ordinance. The Brewery's situation does not fit this scenario. There is no waiver or other provision allowing Council to consider the proposed alternative under the current Code.

I have been advised that the Brewery and Treads 'N' Threads currently share a sewer line. The sewer line requirements are the same as those required for water line installations. Whether such connection is currently Code compliant should be investigated, but should not be considered by Council as relevant to the current request.

I have also been advised that there is concern regarding the need to close some or all of Main Street in the general location of the Brewery in order for a properly sized water line to be run from the tap to the Brewery. Closure of streets for such purposes, or other purposes, is a common occurrence, and can be handled at a time and in a manner that will cause minimal inconvenience. Closure of the street or a portion should not be considered as relevant to the request.

One of the reasons for the Code provision cited above is that in the past the City has had two different property owners share the same service line. The property owner whose property the service line was on no longer wanted the other property attached to that service line. The City was forced to condemn the one home until the owners could afford to have a new service line installed. There may be other similar situations.

Other reasons include what happens upon the sale or closure of the business containing the “servient” water line, rescission of agreement to share the water line, if there are leaks or damage to the servient property, if bills are not paid and shut-offs must occur, who pays to prevent water lines from freezing, etc.

State law also impacts the connection request. The State of Colorado as of January 1, 2016 has revised the Backflow Prevention and Cross-Connection Rule. The proposed connection sought by the Brewery would be considered as a cross connection. Both businesses would be required to have an appropriate backflow preventer installed to protect the City water system from a possible backflow. The installation of a backflow device requires annual testing costing between \$100 and \$200 per year. The State’s requirements regarding backflow prevention can be provided if requested by Council.